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SENATE BILL 694

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO HOME LOANS; AMENDING PROVISIONS CONCERNING THE PRACTICE OF FLIPPING A HOME LOAN; PROVIDING FOR RELIANCE ON RULES; AMENDING SECTIONS OF THE HOME LOAN PROTECTION ACT; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 58-21A-1 NMSA 1978 (being Laws 2003, Chapter 436, Section 1) is amended to read:

"58-21A-1. SHORT TITLE.--~~[Sections 1 through 14 of this act]~~ Chapter 58, Article 21A NMSA 1978 may be cited as the "Home Loan Protection Act"."

Section 2. Section 58-21A-4 NMSA 1978 (being Laws 2003, Chapter 436, Section 4) is amended to read:

"58-21A-4. PROHIBITED PRACTICES AND PROVISIONS REGARDING HOME LOANS AND HIGH-COST HOME LOANS.--

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1 A. No creditor shall finance, directly or
2 indirectly, credit life, credit disability, credit unemployment
3 or credit property insurance, or any other life or health
4 insurance, or any payments directly or indirectly for any debt
5 cancellation or suspension agreement or contract, provided that
6 nothing in this subsection prohibits the payment or receipt of
7 insurance premiums or debt cancellation or suspension fees
8 calculated on the unpaid balance of a home loan and paid on a
9 monthly basis or prohibits bona fide credit property insurance
10 required by the federal housing administration or the United
11 States department of agriculture to be paid in a single premium
12 to the respective federal agency. As used in this subsection,
13 "credit property insurance" means property insurance written in
14 connection with credit transactions under which the creditor is
15 the primary beneficiary.

16 B. No creditor shall knowingly and intentionally
17 engage in the unfair act or practice of flipping a high-cost
18 home loan. As used in this subsection, "flipping a high-cost
19 home loan" means the making of a high-cost home loan to a
20 borrower that refinances an existing home loan when the new
21 high-cost home loan does not have reasonable, tangible net
22 benefit to the borrower considering all of the circumstances,
23 including the terms of both the new and refinanced loans, the
24 cost of the new loan and the borrower's circumstances."

25 Section 3. Section 58-21A-13 NMSA 1978 (being Laws 2003,

.154978.1

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1 Chapter 436, Section 13) is amended to read:

2 "58-21A-13. ATTORNEY GENERAL--ENFORCEMENT OF RULES--
3 COMPLIANCE WITH RULES.--

4 A. The financial [~~institution~~] institutions
5 division of the regulation and licensing department shall
6 enforce the provisions of the Home Loan Protection Act and,
7 after consulting with the attorney general and considering
8 similar rules of the federal housing administration and the
9 federal department of veterans affairs, shall adopt rules
10 required pursuant to Subsection H of Section [~~5 of the Home~~
11 Loan Protection Act] 58-21A-5 NMSA 1978 and such other rules as
12 are necessary to implement that act.

13 B. No provision of the Home Loan Protection Act
14 imposing liability applies to an act done or omitted in good
15 faith in conformity with a rule adopted by the financial
16 institutions division of the regulation and licensing
17 department, notwithstanding that the rule may later be amended,
18 repealed or determined by judicial or other authority to be
19 invalid."

20 Section 4. EMERGENCY.--It is necessary for the public
21 peace, health and safety that this act take effect immediately.